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SUBJECT: CROATIA AND SLOVENIA ANNOUNCE AGREEMENT ON BORDER PROCESS AND UNBLOCKING EU NEGOTIATIONS

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[1B.](#) ZAGREB 552

Classified By: Rick Holtzapple, PolEcon Counselor, for reasons 1.4 (b) & (d).

SUMMARY

[11.](#) (C/NF) PMs Kosor and Pahor announced today in Ljubljana that they had reached an agreement to unblock Croatia's EU accession negotiations and re-start negotiations on a Arbitration Agreement for their long-standing border dispute.

If all goes well, this could mean both processes get back underway as early as the week of September 14, or at the latest by mid-October. This is a great success for the new Kosor government. But the Croats do have some concern that actually reaching an Arbitration Agreement may prove the harder part of the process. END SUMMARY.

AGREEMENT ON BORDER PROCESS AND UNBLOCKING EU NEGOTIATIONS

[12.](#) (U) Croatian media have reported heavily on today's meeting in Ljubljana between PM Jadranka Kosor and Slovenian PM Borut Pahor, announcing an agreement to unblock Croatia's EU accession negotiations and to continue negotiations toward an Arbitration Agreement for resolution of their long-standing border dispute. The agreement is based on a letter from Kosor to Swedish PM Reinfeldt (as EU Presidency) stating that no actions taken or documents produced since 1991, including those included in Croatia's EU accession negotiations could be used to prejudice the eventual resolution of the border disagreement with Slovenia, and also expressing Croatia's willingness to participate in the "continuation" of the "EU-facilitated" talks to establish an Arbitral Tribunal to decide the border issue. In a particularly deft public diplomacy move, Pahor, Kosor, and several senior officials then went together for coffee in a downtown cafe, with pictures showing them in a very relaxed mood appearing on local websites.

[13.](#) (SBU) The text of Kosor's letter, which PolCouns was allowed to read on September 10, should be made public today. PM Kosor on September 10 shared the text of the letter with President Mesic, members of the governing coalition, and representatives of opposition parties in the parliament. In the one potentially sour note, the largest opposition party, the Social Democrats, declined to attend the briefing by Kosor, stating that they wanted more information before

reaching any judgment on the deal. PolOff has been in touch with the SDP's international secretary, and we understand SDP's objections are primarily about the fact that they were not included or consulted in the process of the talks with Slovenia, but that they are unlikely to have any substantive objections to what Kosor has agreed.

NEXT STEPS

¶4. (C/NF) Kosor's foreign policy advisor, Davor Stier, spoke with PolCouns on September 10 about Croatia's understanding of the next steps in the process. He said Pahor would consult with the Slovenian Parliament's foreign affairs committee by next Tuesday to get support for lifting Slovenia's holds on all of the pending chapters in Croatia's EU accession negotiations, and would then inform the Swedish EU Presidency of this. The Swedish PM, as EU President, would then send a letter to Kosor taking note of her letter and the subsequent communication from Pahor. This letter would announce the date for a new round of accession talks (AKA an IGC or Intergovernmental Conference), and also state the negotiating process to reach an Arbitration Agreement would re-commence "simultaneously." Stier showed PolCouns a draft of the text Reinfeldt would send that Stier said both Slovenia and Croatia had agreed on. Stier said that he and his counterpart had presented it to the Swedes in Stockholm on September 8, and the Swedes had agreed to send the letter with no changes.

¶5. (C/NF) Stier hoped that the whole process could move very quickly. He said that the Swedish Deputy Foreign Minister

had told them that if Pahor sent his message next Tuesday, then the EU's COREPER group could meet as soon as Wednesday, Sept. 16 to approve the opening and/or closing of the pending chapters, and an IGC could then be scheduled for as early as Sept. 17 or 18. Stier said Croatia's expectation was that the first negotiating session on the Arbitration Agreement would be held "back-to-back" (i.e., on the same day and in the same venue) with the IGC. (NOTE: It may not happen that fast. When we checked with the Swedish Embassy here today, they responded as follows: "An IGC is already tentatively set for mid-October...We need to study today's agreement in detail. It is too early to discuss rearranging the IGC schedule.")

WAS THIS THE EASY PART?

¶6. (C/NF) Stier expressed great satisfaction that Croatia had been able to reach this agreement with Slovenia, and was grateful for U.S. assistance in helping to keep the talks on track. He did raise some concerns, however, that actually reaching an Arbitration Agreement could prove just as, if not more, difficult. It was obvious to everyone, he said, that the talks would begin with the June 15 draft agreement presented by EU Commissioner Rehn as a starting point. But he was concerned that the Slovene side would push hard to force the Croatians to accept the June 15 document without changes, or at least without any changes to Article 3 describing the tasks of the Tribunal. That would be impossible for Croatia. One necessary change, which Stier claimed Slovenia favored as well, was to amend the language on when the Tribunal should conclude its work, to state that the Tribunal's award would only be issued after Croatia's EU Accession Treaty was fully ratified. More controversial, Stier said, was that Article 3 would have to be modified in some way to clarify that the Tribunal did not start its work with a presumption whether or not there should be a "chimney" or other form of direct contact between Slovenia and international waters.

¶7. (C/NF) Stier said his unease on Article 3 came from a private lunch he had with PM Pahor on September 7. (NOTE: Stier asked PolCouns to strictly protect the fact that he had had lunch with Pahor, implying that very few people in either government were aware of this meeting. END NOTE.) At that

lunch Stier asked Pahor whether Slovenia could accept including language in Article 3 clarifying that it was up to the Tribunal to decide whether or not there would be any such territorial contact. Stier said that Pahor did not absolutely exclude the possibility, but had said that it would be very, very difficult, and he was not sure Slovenia could agree to that. If Slovenia insisted on language in the Arbitration Agreement that appeared to presume an outcome giving Slovenia direct contact with international waters, rather than leaving the question open, Stier said that would be a deal-breaker. Croatia had already made a major concession back in April when it accepted draft language, in Article 4, saying that the Tribunal's decision on contact with international waters would be made not based solely on international law, but also on "equity and the principle of good neighborly relations." It could not now bend even further and accept language that presumed direct territorial contact.

¶8. (C/NF) PolCouns replied that it was clear there were still delicate negotiations ahead to reach an Arbitration Agreement. Neither side should attempt to word the Arbitration Agreement in a way that would guarantee a specific outcome. We expected both sides would show both the principles and the flexibility to be able to reach an agreement. To get to that point, however, it was vital to implement this week's agreement, get the EU accession negotiations back underway, and re-start the talks on finalizing an Arbitration Agreement.

COMMENT

¶9. (C/NF) Today's news is a great step forward, and a huge foreign policy achievement for the new Kosor government. As such, the Croatians can be expected to do the maximum to keep this success intact, which means reaching an Arbitration Agreement and removing the Slovenian objections to Croatia's EU accession process for good. Croatia is certainly willing to accept an Arbitration Agreement that leaves open the possibility that Slovenia might actually end up with some sort of chimney (in part, at least, because they are confident of their legal arguments that such a decision is not merited). What Kosor's government will not be able to accept, however, is to sign on to the June 15 draft with no changes at all. END COMMENT.
FOLEY